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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,058	11/04/2003	Holger Sedlak	10046.0155	5559
38881	7590	11/13/2009	EXAMINER	
DICKSTEIN SHAPIRO LLP			PARRIES, DRU M	
1633 Broadway			ART UNIT	PAPER NUMBER
NEW YORK, NY 10019			2836	
MAIL DATE		DELIVERY MODE		
11/13/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/701,058	<b>Applicant(s)</b> SEDLAK ET AL.
	<b>Examiner</b> DRU M. PARRIES	<b>Art Unit</b> 2836

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 30 September 2009.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,3,4,6,7 and 9 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,3,4,6,7 and 9 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/95/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 09/30/2009 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed September 30, 2009 have been fully considered but they are not persuasive. Regarding the Applicant's argument regarding the limitation "directly in response to said control signal", in the Durham reference, the pulse filter is comprised of reference numbers 1-7, 10-13, and 20, the control device is comprised of reference numbers 21 and 14-17, and the control signal is comprised of the outputs from control device elements 16 and 17 to elements in the pulse filter; therefore one of ordinary skill in the art could recognize Figs. 1A and 1B showing/suggesting the sensor (18) being connected to a control device, which has an output (sending control signals) connected to an input of a pulse filter, wherein the pulse filter is in series with and in between an oscillator clock and an outputted filtered clock signal. Therefore, one could

say that the pulse filter of Durham suppresses clock pulses directly in response to said control signal from the control device.

Regarding the Applicant's argument regarding the limitation "said control device adjusts said clock frequency instantaneously", the Applicant acknowledges that based on a sensed power consumption Durham's control device incrementally reduces the frequency of the clock. The Examiner contends that Durham's system can adjust said clock frequency incrementally and instantaneously at the same time. They are not mutually exclusive. The claim states that the clock frequency is adjusted instantaneously, and the Examiner contends that Durham teaches adjusting the clock frequency instantaneously by incrementally suppressing clock pulses. Therefore, the Examiner believes that Durham/Wang combination still reads on the claimed limitations.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1, 3, 4, 6, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Durham et al. (5,761,517) and Wang (5,943,203). Durham teaches a current measuring device (18), a controllable clock supply circuit (27, 19, 1-7, 10-13, 20) having an output with filtered clock pulses to be connected to a clock input of the circuit configuration (20, system\_clock), and a clock generator (27) generating a constant maximum internal frequency. He also teaches a control device (21 & 14-17), connected to and controlling a pulse filter (1-7, 10-13, 20), which drives the filtered clock (via control signals sent via 16 and 17) based upon the measured current consumption (via sensor, 18). He also teaches the pulse filter (1-7, 10-13, 20) suppressing individual clock pulses of the clock generator (27) instantaneously when a high power condition is detected (via sensor, 18), directly in response to the control signal at the pulse filter's control input (new\_data of registers 10-13). It is inherent to detect if such a condition exists, to have a definable threshold value and to see if the measured value exceeds it. (Abstract; Col. 1, lines 53-59; Col. 6, lines 24-52; Fig. 1A&B) Durham fails to explicitly teach the sensor being instantaneous and how the sensor (18) determines that a high power condition exists. Wang teaches a current being measured by an instantaneous current sensor and then compared with a threshold value by a comparator to determine if an over-current state has occurred (Col. 4, lines 14-19). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Wang's

method of determining over-current into Durham's invention since Durham doesn't teach how it is determined and Wang teaches a method known in the art. It also would have been obvious to one of ordinary skill in the art at the time of the invention to use an instantaneous current sensor and instantaneous adjustment of clock frequency in Durham's invention to allow for more accurate measurements of the current and more precise control of the clock's frequency.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dru M. Parries whose telephone number is (571) 272-8542. The examiner can normally be reached on Monday -Thursday from 9:00am to 6:00pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jared Fureman, can be reached on 571-272-2391. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DMP

11-2-2009

*/Jared J. Fureman/*

Supervisory Patent Examiner, Art Unit 2836